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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,842	01/16/2004	Thomas Nikolaus	04-134	6965
34704 7590 02/21/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
LOPEZ, FRANK D				
ART UNIT		PAPER NUMBER		
3745				
MAIL DATE		DELIVERY MODE		
02/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,842

Applicant(s)

NIKOLAUS, THOMAS

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on December 4, 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 83-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 83-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

. Response to Amendment

Applicant's arguments filed December 4, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 83-91 have been considered but are deemed to be moot in view of the new grounds of rejection.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 83-91 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 83 line 8 "Y" should be deleted.

In claim 83 last 5 lines "the monitoring unit selectively connects the plurality of loads to the outlet line as a function of the output from the plurality of pumps in the output line so that the rotation speed of the rotor is controlled to optimize power output" is wrong, since the number of loads connected to the output line is not disclosed as controlling the rotation speed of the rotor. The number of pumps connected to the output line (e.g. paragraph 56-57) and the control valve (e.g. paragraph 40) are disclosed as controlling the rotor speed, but the number of loads connected is only disclosed as optimizing power output (e.g. paragraphs 59 and 60).

In claim 86 line 3 "a converter for the generators wherein the converter drives the generators" appears to be wrong, since each converter only drives one generator.

In claim 91 line 1-2 "a plurality of wind machines" is confusing, since the plurality was claimed in claim 84. In claim 91 line 3-4 "a converter is connected to the loads by the common supply and return lines" is wrong, since the common supply and return lines connect the converter to the pumps not the load. Furthermore, the converter is only connected to one load not a plurality of loads. In claim 91 line 2-3 and 4 "a (the) common supply line" is confusing, since it would appear to be the same as the output line of claim 83 line 9.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 103

Claims 83, 85, 86, -91 are rejected under 35 U.S.C. § 103 as being unpatentable over Lawson-Tancred in view of Bea and Cros. Lawson-Tancred discloses a wind power system comprising a wind machine having a rotor element (11) driving, through a gear transmission element (16), a plurality of pumps (17a-17d), control means for selectively connecting the output from one or more of the pumps to an output line, as a function of power output levels (based on rotor speed, column 4 line 2-9); wherein a pressure equalization container (21) is in the output line connecting the outlets of the pumps to a load, formed by converters (24, 25) driving respective generators (31, 32); wherein the rotor element is attached to a pylon attachment, which is rotatably attached (e.g. column 3 line 64-67) to a pylon (14); a monitoring unit (including switches 26-29) for selectively connecting the load to the output line (via valve 59) as a function of the output from the plurality of pumps; but does not disclose that the pumps are in the pylon attachment. It would appear that inherently a bearing would support the pylon attachment, since it rotates.

Bea teaches, for a wind power system comprising a wind machine, driving a plurality of pump (e.g. 30, 31), which drives a generator (e.g. 8a); wherein rotor elements (38) are attached to a pylon attachment (11), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (14); that the pumps are in the pylon attachment and that the output line is passed through a coupling (73, column 5 line 52-6) so it is rotationally decoupled.

Since Lawson-Tancred doesn't disclose where the pumps are located, and Bea does, it would have been obvious at the time the invention was made to one having ordinary skill in the art to locate the pumps of Lawson-Tancred in the pylon attachment, with the output line passed through a coupling so its rotationally decoupled, as taught by Bea, since one having ordinary skill in the art would have been able to locate the pumps there and the resulting combination would predictable work in the same manner.

Claims 84, 87, 90 and 91 are rejected under 35 U.S.C. § 103 as being unpatentable over Lawson-Tancred in view of Bea, as applied to claim 83 above, and further in view of Parkins. The modified Lawson-Tancred discloses all the elements of claims 84, 87, 90 and 91, including that there is a mechanical brake (36) for protecting the wind machine against overspeed conditions (column 5 line 29-35); but does not disclose that a plurality of individual wind power machines, each having a plurality of pumps, are connected to the loads; or that a controllable restriction element is in the output line for braking.

Parkins teaches, for a wind power system comprising a wind machine (10) having a rotor element (11) driving, through a gear transmission element (e.g. 43), a plurality of pumps (22); wherein a pressure equalization container (46) is in an outlet line connecting outlet lines of the pumps to a load, formed by a converter (48) driving a generator (50); that there are a plurality of individual wind power machines (fig 2), each having a plurality of pumps, connected to the loads; and that a controllable restriction element (111, e.g. column 8 line 12-13) in the output line for braking, for the purpose of protecting the wind machine against overspeed conditions (column 5 line 28-30).

Since the brake of Lawson-Tancred and Parkins are functionally equivalent in the wind power art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to make the brake of Lawson-Tancred a controllable restriction element in the output line, as taught by Parkins, since one having ordinary skill in the art would have been able to carry out such a substitution and the resulting combination would predictable work in the same manner.

Since the modified Lawson-Tancred and Parkins are both from the same field of endeavor, the variation disclosed by Parkins would have been recognized in the pertinent art of Lawson-Tancred. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include a plurality of individual wind power machines in the wind power system of the modified Lawson-Tancred, each having a plurality of pumps, connected to the loads, as taught by Parkins, for the purpose of generating more power.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM –4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
February 21, 2008